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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO HEADQUARTERS**

UNITED STATES OF AMERICA *ex*  
*rel.* MOJGAN FARAJI and DAVID  
SWEIGERT,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH  
PLAN, INC., *et al.*,

Defendants.

Case No. C 12-6518 JCS

**UNITED STATES' NOTICE OF ELECTION  
TO DECLINE INTERVENTION;  
~~[PROPOSED]~~ ORDER TO UNSEAL**

**FILED UNDER SEAL**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its decision not to intervene in this action. Although the United States declines to intervene, it respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the relators to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the

dismissal and their reasons for consenting.” Id. The United States Court of Appeals for the Ninth Circuit has held that, notwithstanding this language, the United States only has the right to a hearing when it objects to a settlement or dismissal of the action. U.S. ex rel. Green v. Northrop Corp., 59 F.3d 953, 959 (9th Cir. 1995); U.S. ex rel. Killingsworth v. Northrop Corp., 25 F.3d 715, 723-25 (9th Cir. 1994).

Therefore, the United States requests that, should either the relator or the defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court provide the United States with notice and an opportunity to be heard before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States. The United States also requests that orders issued by the Court be sent to the government's counsel. The United States reserves its rights to order any deposition transcripts and to intervene in this action, for good cause, at a later date, and to seek the dismissal of the relator's action or claim. See 31 U.S.C. § 3730(c)(3). The United States also requests that it be served with all notices of appeal.

Finally, the United States requests that the Court unseal: (1) relators' Complaint; (2) the summons, if any; (3) the scheduling order; (4) this Notice of Election to Decline Intervention, with (Proposed) Order to Unseal; and (5) all other matters occurring in this action after the date the Court enters the unsealing order. The United States requests that all other contents of the Court's file in this matter (including, but not limited to, any applications filed by the United States for extensions of the sixty-day investigative period, any applications for partial lifting of the seal, and any orders previously entered in this matter) remain under seal and not be made public or served upon defendants.


Respectfully submitted,

STUART F. DELERY  
Assistant Attorney General

Dated: September 5, 2013

MELINDA HAAG

By:

  
SARA WINSLOW  
Assistant United States Attorney  
Attorneys for the United States

~~[PROPOSED]~~ ORDER TO UNSEAL

The United States having declined to intervene in this action pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), IT IS HEREBY ORDERED that:

1. The Complaint, the summons, the scheduling order, this Order, and the accompanying United States' Notice of Election to Decline Intervention are hereby unsealed.
2. The relator shall serve the Complaint on defendants.
3. Any applications and/or declarations that have been filed under seal by the United States for an extension of the sixty-day investigative period or for any other reason shall remain under seal and not be made public or served upon the defendants.
4. The seal shall be lifted as to all other matters occurring in this action after the date of this Order.
5. The parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time.
6. The parties shall serve all notices of appeal upon the United States.
7. All orders of this Court shall be sent to the United States.
8. Should the relator or the defendants propose that this action be dismissed, settled, or otherwise discontinued, the Court will provide the United States with notice and an opportunity to be heard before ruling or granting its approval.

IT IS SO ORDERED.

Dated: Sept. 9, 2013

  
JOSEPH C. SPERO  
United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she is causing a copy of the following:

**UNITED STATES' NOTICE OF ELECTION TO DECLINE INTERVENTION; [PROPOSED]  
ORDER  
(FILED UNDER SEAL)**

to be served this date upon each of the persons indicated below at the address(es) shown:

George S. Azadian  
The Mathews Law Group  
37 E. Huntington Dr., Suite A  
Arcadia, CA 91006

☒ **BY FIRST CLASS MAIL** by placing a true copy thereof in a sealed envelope with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

☐ **CERTIFIED MAIL (#)** by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.


☐ **BY PERSONAL SERVICE (BY MESSENGER):** I caused such envelope to be delivered by hand to the person or offices of each addressee above.

☐ **BY FACSIMILE (FAX):** I caused each such document to be sent by facsimile to the person or offices of each addressee above.

☐ **BY E-MAIL:** I caused each such document to be sent by e-mail to the person or offices of each address above

☐ **BY FEDERAL EXPRESS**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed September 5, 2013 at San Francisco, California

  
KATHY TERRY  
Supervisory Legal Assistant



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA ex rel.  
MOJGAN FARAJI & DAVID SWEIGERT,

No. 3:12-cv-6518 (JCS)

Plaintiff(s),

CERTIFICATE OF SERVICE

v.

KAISER FOUNDATION HEALTH PLAN,

Defendant(s).

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 9, 2013, I SERVED a true and correct copy of the attached, by placing said copy in a postage paid envelope addressed to the person(s) listed below, by depositing said envelope in the U.S. Mail; or by placing said copy into an inter-office delivery receptacle located in the Office of the Clerk.

Sara Winslow  
Asst. United States Attorney  
450 Golden Gate Ave., Box 36055  
San Francisco, CA 94102

George S. Azadian  
The Mathews Law Group  
37 E. Huntington Dr., Suite A  
Arcadia, CA 91006

RICHARD W. WIEKING, CLERK

BY: Karen L. Hom  
Karen L. Hom, Courtroom Deputy